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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

FABRIC SELECTION, INC., a California corporation,

Case No.:

## PLAINTIFF'S COMPLAINT FOR COPYRIGHT INFRINGEMENT

## Jury Trial Demanded

**Plaintiff,**

V.

BENEDICT'S GOODS, LLC, individually and doing business as "AMARYLLIS APPAREL", a California limited liability company; ZULILY, LLC, a Delaware limited liability company; and DOES 1 through 10,

### Defendants.

1 Plaintiff Fabric Selection, Inc., (“FSI” or “Plaintiff”), by and through its  
2 undersigned attorneys, hereby prays to this honorable Court for relief based on the  
3 following:

4 **JURISDICTION AND VENUE**

5 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., §  
6 101, *et seq.*

7 2. This Court has federal question jurisdiction under 28 U.S.C. §§ 1331  
8 and 1338 (a) and (b).

9 3. Venue in this judicial district is proper under 28 U.S.C. §§ 1391(c) and  
10 1400(a) in that this is the judicial district in which a substantial part of the acts and  
11 omissions giving rise to the claims occurred.

12 **PARTIES**

13 4. FSI is a corporation organized and existing under the laws of the State of  
14 California with its principal place of business in Commerce, California.

15 5. Plaintiff is informed and believes and thereon alleges that Defendant  
16 Benedict’s Goods, LLC, individually and doing business as “Amaryllis Apparel,”  
17 (“Amaryllis”) is a California limited liability company with its principal place of  
18 business located at 15261 Barranca Pkwy, Irvine, CA 92618.

19 6. Plaintiff is informed and believes and thereon alleges that Defendant  
20 Zulily, LLC (“Zulily”) is a Delaware corporation with its principal place of business  
21 located at 2601 Elliott Avenue Suite 200, Seattle, WA 98121 and is doing business  
22 with the State of California.

23 7. Plaintiff is informed and believes and thereon alleges that Defendants  
24 Does 1 through 10 (collectively, “DOE Defendants”) (altogether with Amaryllis and  
25 Zulily, “Defendants”) are other parties not yet identified who have infringed  
26 Plaintiff’s copyrights, have contributed to the infringement of Plaintiff’s copyrights,  
27 or have engaged in one or more of the wrongful practices alleged herein. The true  
28 names, whether corporate, individual, or otherwise, of DOE Defendants are presently

unknown to Plaintiff, which therefore sues said DOE Defendants by such fictitious names and will seek leave to amend this complaint to show their true names and capacities when same have been ascertained.

8. Upon information and belief, each of the Defendants was the agent, affiliate, officer, director, manager, principal, alter-ego, and/or employee of the remaining Defendants, and was at all times acting within the scope of such agency, affiliation, alter-ego relationship and/or employment; and actively participated in, subsequently ratified, and/or adopted each of the acts or conduct alleged, with full knowledge of each violation of Plaintiff's rights and the damages to Plaintiff proximately caused thereby.

## **CLAIMS RELATED TO DESIGN SR70112**

9. Plaintiff owns an original two-dimensional artwork that is used for textile printing, entitled SR70112, and registered with the U.S. Copyright Office (hereinafter “Subject Design A.”)

10. Prior to the acts complained of herein, Plaintiff widely disseminated Subject Design A to numerous parties in the fashion and apparel industries.

11. Following Plaintiff's display and distribution of Subject Design A, Defendants, and each of them, created, manufactured, distributed, offered for sale, sold, displayed, reproduced, and/or otherwise used fabric and/or garments featuring a design that is strikingly and/or substantially similar to Subject Design A without a license, authorization, or consent from Plaintiff ("Infringing Product A.") Representative examples of the Subject Design and Infringing Product A are below:

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<u>SUBJECT DESIGN A</u>	<u>INFRINGEMENT PRODUCT A</u>
SR70112 	Feelin' Floral Tee (Style: A-115-PF-S) (SKU: 405277810101) 
Detail 	Detail 

12. The above comparison makes apparent that the elements, composition, arrangement, layout, and appearance of the design on the Infringing Product A is substantially similar to Subject Design A.

13. Plaintiff discovered the Infringing Product in early 2023 and had no reason to know of it prior to that time.

14. In April 2023, Plaintiff sent correspondence to Amaryllis in an attempt to resolve this dispute without litigation. Defendants failed to meaningfully respond, necessitating this action.

## **CLAIMS RELATED TO DESIGN SE60401**

15. Plaintiff owns an original two-dimensional artwork that is used for textile printing, entitled SE60401, and registered with the U.S. Copyright Office (hereinafter "Subject Design B.")

16. Prior to the acts complained of herein, Plaintiff widely disseminated Subject Design B to numerous parties in the fashion and apparel industries.

17. Following Plaintiff's display and distribution of Subject Design B, Defendants, and each of them, created, manufactured, distributed, offered for sale, sold, displayed, reproduced, and/or otherwise used fabric and/or garments featuring a design that is strikingly and/or substantially similar to Subject Design B without a license, authorization, or consent from Plaintiff ("Infringing Product B.")

Representative examples of the Subject Design and Infringing Products B are below:

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<b>SUBJECT DESIGN B</b>	<b>INFRINGEMENT PRODUCT B</b>
<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28</p> <p>SE60401</p> 	<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28</p> <p>Black &amp; Pink Floral-Contrast Flutter-Sleeve Boatneck Top-Women (SKU: A-3023BKF-PIX_FLORALBLACKP_S)</p>   

18. The above comparison makes apparent that the elements, composition, arrangement, layout, and appearance of the design on the Infringing Product B is substantially similar to Subject Design B.

19. Plaintiff discovered the Infringing Product in early 2023 and had no reason to know of it prior to that time.

20. In August 2023, Plaintiff sent correspondence to Amaryllis and Zulily in an attempt to resolve this dispute without litigation. Defendants failed to meaningfully respond, necessitating this action.

## **FIRST CLAIM FOR RELIEF**

(For Copyright Infringement – Against All Defendants, and Each)

21. Plaintiff incorporates by reference the allegations contained in the preceding paragraphs of this Complaint.

22. Upon information and belief, Defendants, and each of them, had access to Subject Designs A and B (collectively, “Subject Designs”), including, without limitation, through (a) Plaintiff’s showroom and/or design library; (b) illegally distributed copies of the Subject Designs by third-party vendors and/or DOE Defendants (e.g., international and/or overseas converters and printing mills); (c) Plaintiff’s strike-offs and samples; and/or (d) garments in the marketplace manufactured with lawfully printed fabric bearing the Subject Designs.

23. Upon information and belief, one or more of the Defendants is a garment manufacturer and/or vendor; that said Defendant(s), and each of them, has/have an ongoing business relationship with Defendant retailers, and each of them; that said Defendants supplied fabric and/or garments, including Infringing Product A and B (collectively, “Infringing Products”), to said Defendant retailers; and that said Defendant retailers used the Infringing Products as alleged above.

24. Upon information and belief, Defendants, and each of them, infringed Plaintiff's copyrights by creating, making and/or developing directly infringing and/or derivative works from the Subject Designs and by producing, distributing and

1 or selling Infringing Products through a nationwide network of retail stores,  
2 catalogues, and through online websites.

3       25. Due to Defendants' acts of infringement, Plaintiff has suffered  
4 substantial damages to its business in an amount to be established at trial.

5        26. Due to Defendants', and each of their, acts of infringement, Defendants,  
6 and each of them, have obtained profits they would not have realized but for their  
7 infringement of Plaintiff's copyrights in the Subject Designs. As such, Plaintiff is  
8 entitled to disgorgement of Defendants' profits attributable to Defendants'  
9 infringement of Plaintiff's rights in the Subject Designs in an amount to be  
10 established at trial.

11       27. Upon information and belief, Defendants, and each of them, have  
12 committed copyright infringement with actual or constructive knowledge, or in  
13 reckless disregard, of Plaintiff's copyrights in the Subject Designs, such that said acts  
14 of copyright infringement were, and continue to be, willful.

## **PRAYER FOR RELIEF**

Wherefore, Plaintiff prays for judgment as follows:

- a. That Defendants—each of them—and their respective agents and servants be enjoined from importing, manufacturing, distributing, offering for sale, selling, or otherwise trafficking in any product that infringes Plaintiff's copyrights in the Subject Designs;
- b. That Plaintiff be awarded all Defendants' profits, plus all Plaintiff's losses, attributable to Defendants' infringement of Plaintiff's copyrights in the Subject Designs; or alternatively, if elected before final judgment, statutory damages under the Copyright Act, 17 U.S.C. § 101, *et seq.*;
- c. That Plaintiff be awarded its attorneys' fees under 17 U.S.C. § 505;
- d. That Plaintiff be awarded pre-judgment interest as allowed by law;
- e. That Plaintiff be awarded the costs of this action; and

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1 f. That Plaintiff be awarded such further legal and equitable relief as the Court  
2 deems proper.

3 **JURY TRIAL DEMANDED**

4 Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P.  
5 38 and the 7<sup>th</sup> Amendment to the United States Constitution.

6 Respectfully submitted,

7 Dated: August 30, 2023

8 By: /s/ Trevor W. Barrett  
9 Trevor W. Barrett, Esq.  
10 Frank R. Trechsel, Esq.  
11 DONIGER / BURROUGHS  
12 Attorneys for Plaintiff